

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7091

BILL NUMBER: SB 396

NOTE PREPARED: Jan 4, 2013

BILL AMENDED:

SUBJECT: Theft.

FIRST AUTHOR: Sen. Taylor

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill makes theft:

1. A Class A misdemeanor instead of a Class D felony if the retail value of the property that is the subject of the theft is less than \$500;
2. A Class D felony if the retail market value of the property is at least \$500 but less than \$100,000; and
3. A Class C felony if the retail market value of the property is at least \$100,000 or if the property that is the subject of the theft is a valuable metal under certain circumstances.

The bill changes the standard for the measurement of the value of property for purposes of the crime of receiving stolen property as a Class C felony from fair market value to retail value.

Effective Date: July 1, 2013.

Explanation of State Expenditures: This bill potentially reduces the costs to the state if an offender is convicted of theft of property valued at less than \$500 where the penalty is a Class A misdemeanor rather than a Class D felony. This is because offenders convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony

offenders is approximately ten months.

Background: Current law provides that a person who commits theft is guilty of a Class D felony if the value of the stolen property is less than \$100,000 and a Class C felony if the value of the stolen property is at least \$100,000. If the person is also guilty of breaking and entering a building or structure of another person with intent to commit the theft, it is burglary, a Class C felony.

The bill lowers the penalty of theft to a Class A misdemeanor instead of a Class D felony, if the value of the stolen property is less than \$500.

Approximately 2,122 people were committed to state prison during FY 2012 for theft.

Explanation of State Revenues: If there are cases that are reduced to a Class A misdemeanor from a Class D felony, revenue to both the Common School Fund and the state General Fund would likely decrease. The maximum fine for a Class D felony is \$10,000 and \$5,000 for a Class A misdemeanor. Criminal fines are deposited in the Common School Fund. However, any decrease in revenues would likely be small.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund. If court actions are filed and a judgment is entered for a Class D infraction, the court fee is \$70.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. However, any additional expenditures would likely be small.

Permitting a law enforcement officer to arrest a person if the officer has probable cause to believe that the person has committed or attempted to commit theft as a Class A misdemeanor should not increase local expenditures.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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